EXHIBIT 3

CONFIDENTIAL

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

JAY J. RALSTON, On Behalf Of	)	
Himself And All Others Similarly	)	
Situated,	)	No. 5:08-CV
Plaintiff,	)	00536-JF (PSG)
vs.	)	VOLUME I
MORTGAGE INVESTORS GROUP, INC.;	)	
MORTGAGE INVESTORS GROUP, a	)	
general partnership; COUNTRYWIDE	)	
HOME LOANS, INC.; and DOES 3-10,	)	
Defendants.	)	

THIS TRANSCRIPT IS CONFIDENTIAL

PURSUANT TO PROTECTIVE ORDER

Deposition of LEONARD H. LYONS, taken at 601 South Figueroa Street, Los Angeles, California, commencing at 10:04 A.M., Wednesday, June 1, 2011, before Judith A. Mango, CSR No. 5584.

PAGES 1 - 171

APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:

BROWNE WOODS GEORGE LLP
BY: LEE A. WEISS, ESQ.
626 RXR Plaza
Uniondale, New York 11556
(516) 522-2613
lweiss@bwgfirm.com

FOR THE DEFENDANT COUNTRYWIDE HOME LOANS, INC.:

GOODWIN PROCTER LLP
BY: STEVEN A. ELLIS, ESQ.
601 South Figueroa Street
41st Floor
Los Angeles, California 90017
(213) 426-2500
sellis@goodwinprocter.com

APPEARANCES OF COUNSEL (CONTINUED):

FOR THE DEFENDANTS MORTGAGE INVESTORS GROUP, INC. AND MORTGAGE INVESTORS GROUP:

PALMER, LOMBARDI & DONOHUE LLP
BY: ROLAND P. REYNOLDS, ESQ.
888 West 6th Street
12th Floor
Los Angeles, California 90017
(213) 688-0430
rreynolds@pldlawyers.com

LEONARD H. LYONS,

the witness, having been administered an oath in accordance with CCP Section 2094, testified as follows:

EXAMINATION

BY MR. ELLIS:

Q. Good morning. Would you please state your full name for the record.

A. Leonard H. Lyons, H for Henry. L E O N A R D, H E N R Y, L Y O N S.

Q. And what is your date of birth?

A. October 29, 1958.

Q. And your current business address?

A. 5 Park Plaza, Suite 700, Irvine, California 92614. I've got two, actually.

Q. What's the other one?

A. 2049 Century Park East, Suite 400, Los Angeles, California. And I forgot the ZIP code for that one.

Q. I'm guessing it's 90067, but I'm not sure.

A. I think so.

Q. Mr. Lyons, you have had your deposition taken many times before; is that correct?

A. A number of times, yes.

Q. Let me just go over some of the real basic information. You understand that your testimony today

provide additional support for cross-examination of the opposing expert or an expert that's been put forward. I shouldn't say opposing expert.

Q. Do you have any plans as you sit here right now to prepare any further supplement or addendum to the expert report that you have submitted in this case?

A. Not personally, but if asked by counsel or something comes to light and I'm asked to produce it, I will produce it. But at this present time I have not been asked to.

Q. All right. You currently work for a company called Marcum Stonefield, correct?

A. Right. It's actually Marcum LLP.

Q. Okay. And your current title is partner; is that correct?

A. Yes.

Q. And just in general terms what services does Marcum LLP provide to its clients?

A. Marcum LLP is an international public accounting firm and business advisory firm. So it has everything from audit and tax consulting services to investment banking and wealth management services to some other different areas that I do not know of --

Q. Okay.

A. -- at the present time.

then, asked to assume that -- well, let me withdraw that.

For the work that you were going to do in this matter you were asked to create a mortgage payment stream for a loan that would be at a fixed interest rate of one percent for the first five years?

A. That's correct.

Q. Were you given any assumption for what would happen after five years?

A. No.

Q. Other than what we have already talked about, were you given any other assumptions?

A. Not that I can recall at the present time.

Q. Okay. We have already marked Exhibit 2, and I want to ask you some questions about Exhibit 2, but let me just start by asking you: Do you recall what documents you were given to review in connection with the formation of your expert opinion in this matter?

MR. WEISS: Are you asking him to do that without looking at the report?

MR. ELLIS: He is free to look at the report, or if he remembers offhand, that's fine. Either way is fine with me.

THE WITNESS: I believe I looked at them all.

////

your actual numbers versus what was supposedly -- they were supposed to obtain, the difference between those two would be the final calculation.

So there is a relationship between this model and the actual numbers.

BY MR. ELLIS:

Q. So are you offering an opinion that -- about the correct measure of damages in this case?

A. I was asked to assume the correct measure of damages, the benefit of the bargain.

Q. Okay. And what was the -- specifically what was the assumption that you were given regarding how damages would be calculated in this case?

A. I was just asked to determine these two models, not go to the extent of completing those damage calculations.

Q. Okay. So as of today have you formed any opinion regarding the appropriate measure of damages for the class in this case, assuming the class is certified and they are able to establish liability?

A. I was asked to assume the benefit of the bargain at this point in time. I have not made any other determinations or opinions or was not asked to provide those under the scope I'm working under.

Q. Okay. Getting back to Paragraph 17, which is

supplement the information that is included in Exhibits 2 and 4?

A. Not that I have been asked to do as of this point in time.

Q. And as of now do you have any plans to make any further corrections or addendums or supplements to what is in Exhibits 2 and 4?

A. Just one clarification on Table 1 for the addendum.

Q. Okay. Tell me what that further clarification is.

A. The further clarification is the raising of the extra payment of $72 that's contained in there.

Q. I'm sorry. Let me just make sure I understand we are looking at the same thing. This is the addendum.

A. Right.

Q. So it's Exhibit 4, correct?

A. Right.

Q. And we are on Table 1, correct?

A. That's correct.

Q. Okay. Go ahead.

A. I had been testing the model if we put an additional payment in that was either a late payment fee or an interest payment, so there is an extra $72 that's carried through the table that has no effect because it

is all going to what was supposedly interest or a payment that was taken outside of the mortgage. It has no effect on the principal reductions that are done.

So it just washes through anyhow --

Q. Okay.

A. -- as if the $72 wasn't even in there.

Q. So are you planning to do a revised version of Table 1?

A. Not at the present time, no. It's a very simple explanation.

It has no effect on what both models were trying to represent. It was just another bell and whistle that we were looking at adding on if we need to add on at some point in time. We could test and create things in the model that can handle many different things.

MR. ELLIS: All right. I would like to take a break.

MR. WEISS: Sure.

(Recess taken.)

BY MR. ELLIS:

Q. All right. Turning back to Exhibit 2, your report, I did have one more question about Paragraph 17.

And you said in Paragraph 17 that you analyzed, among other things, plaintiff's third amended class

purpose of financial models. Depending on what parameters you get, you can adjust the model to incorporate those.

And, ideally, you're using something that is potentially publicly available to work from to save the money instead of recreating the wheel.

Q. So have you created a model that would calculate damages on any -- using any measure other than benefit of the bargain?

MR. WEISS: Objection. That's an incomplete hypothetical.

But you can answer.

THE WITNESS: That has been outside of the scope. I just have been asked to create a Hypothetical 1 and a Hypothetical 2, and, you know, look at what the loan terms were and could we calculate what the original loan terms were.

BY MR. ELLIS:

Q. All right. I understand that. I'm trying to understand what your -- what you say your model can and can't accommodate.

MR. WEISS: Objection. He never said it can't accommodate anything. He might, but he hasn't yet.

BY MR. ELLIS:

Q. Well, I'm going to come back to that. I want

understand that part. That's why I'm confused by what you said here.

A. What we're trying to say is that the teaser rates themselves would not be able to repay the loan no matter what the loan rate was, because the minimum loan rate was above the three percent.

So even if you included that three percent as a fully amortizing payment you would not be able to pay off those mortgages.

Q. And so were you assuming that the interest rate, the initial interest rate, what you refer to as the teaser interest rate here in Paragraph 19, would apply for the full term of the loan?

A. Right. If you applied it out to the full term of the loan, okay, there is no way that those payments could have been made up because the margin I looked at is always above -- the margin is three percent.

So unless we had a position where we had a zero or negative index, you would never be able to pay off the loan. You would always have accrued negative amortization.

Q. And is that true even with 7.5 percent yearly increases in the payment amount over the course of a 30-year loan?

A. At the indexes we were seeing, I believe it was

A. That's correct.
Q. The minimum payment would be in Year -- I'm sorry. Let me withdraw that question.
In your "but for" world in Year 2 the minimum payment on Mr. Ralston's loan would be no more than 7.5 percent more than the minimum payment in Year 1, correct?
A. That's correct.
MR. WEISS: Objection.
You can answer.
He answered.
THE WITNESS: That's correct.
BY MR. ELLIS:
Q. And then the same thing in Year 3, the minimum payment would be no more than 7.5 percent higher than the payment in Year 2, correct?
A. That is correct.
Q. Okay. And this would continue in Year 5. For example, the minimum payment would be no more than 7.5 percent more than the payment in Year 4, correct?
A. That's correct.
Q. Under your benefit of the bargain calculation what happens in Year 6?
A. I was not asked to take it out that far.
Q. Okay. So is it correct to say that your damage

measures of damages other than benefit of the bargain, correct?

A. I believe I have, yes.

Q. You have heard of out-of-pocket loss? That's a term you have heard, correct?

A. That's correct.

Q. And restitution is a term that you have also heard?

A. That's correct.

Q. Okay. And do you agree that out-of-pocket loss can be different than benefit of the bargain damages?

A. It is possible. It depends on the facts and circumstances for each case specifically.

Q. Okay. Well, I mean, they are different conceptually, right?

A. They are different measures, that's correct.

Q. I mean, out-of-pocket loss is a measure of damage that's designed to restore an injured plaintiff to where he or she was before the allegedly wrongful conduct, correct?

A. Well, that is your -- I would have to -- I would look at Black's Law Dictionary and take an exact -- or treatise for an exact determination, but it pretty much states it.

Q. Okay. And benefit of the bargain is -- well,

how would you define benefit of the bargain?
A. You got what you were intended to get. In other words, in your agreement, what you were supposed to get, you got what you were supposed to have obtained. If you didn't, the difference between what you got and you were supposed to get is the damage.
Q. Okay. And as of today have you formed any opinion regarding how the out-of-pocket loss measure of damages could be calculated in this case?
A. I was not asked to do that.
Q. So, then, is it correct to say that as of today you have not formed any opinion regarding how the out-of-pocket loss measure of damages could be calculated in this case?
A. Not that I believe so. Not that I can recall.
Q. I want to make sure we don't have a double negative in the record. Are you --
I'm sorry, if you would just be kind enough to read back the last question and answer.
(The record was read.)
MR. ELLIS: Okay. I got the answer I deserved with a negative question.
Q. Let me rephrase it with a question that is clear.
As of today have you formed any opinion

regarding how the out-of-pocket loss measure of damages can be calculated in this case?

A. No, I have not.

Q. Let me ask you a couple of the same questions with regard to restitution.

I think you have already said that you have heard of the term "restitution," correct?

A. That's correct.

Q. All right. And benefit of the bargain damages can be different than restitution, correct?

A. Potentially, yes.

Q. And have you formed any opinion regarding how restitution could be calculated in this case?

A. I have not been asked currently to do that.

Q. And as a result of that you haven't been asked, is it correct to say that you have not formed any opinion regarding how restitution would be calculated in this case?

A. Not at the present time.

Q. All right. I want you to turn to Paragraph 22 of your report, please. And just so the record is clear, we're still on Exhibit 2.

Just in general terms, Paragraph 22 appears to relate to yearly payment increases. I just want to ask you about the last sentence in which you state, and I'm

as I recall, I don't believe I have gotten the actual payments.

Q. Okay. In Paragraph 25 you set forth your description of the two tables. And, as you say here in Paragraph 25, as you have also testified earlier, the difference between Table 1 and Table 2, and correct me if I have this wrong, but I believe it's the case that Table 1 assumes that the additional payment of seven -- I'm sorry.

I sort of tripped over my own words there, so let me withdraw that question and just ask it differently.

Is it correct, Mr. Lyons, that with the tables that are attached to Exhibit 2, your original report, Table 1 assumes that the additional payment made in Years 2 through 5, because of the 7.5 percent annual payment increase, is treated as an additional payment of interest only?

A. That's what it's intended to represent.

Q. Okay. And Table 2 was intended to take that same additional payment of 7.5 percent annual payment increases and apply it to principal only, correct?

A. That's correct.

Q. If your assumption that you were given is that the loan -- let's take Mr. Ralston as an example.

the payment was made after the due date, what -- according to that front-end loan note information what is their late payment percentage that they are charging, is it a fixed fee or a percentage, whichever is higher or lower.

That's probably already written into these type of loan notes and in the front end of the program. I believe we already have some of that information.

That would then be compared, and if the payment is late, you would then look at the interest, whatever payment is made, did it incorporate that into account or what are the provisions of the note if that payment isn't made, is it added on to principal or is it considered a charge that's separately billed that has no effect on the principal and interest.

So you would look at the note parameters or whatever was agreed to in terms of damages that was either to be determined or what was settled upon.

Q. So you would simply follow the provisions of the note to determine how to treat the late payment penalty; is that correct?

A. Potentially.

Q. How else would you do it?

A. Well, if there is an agreement in terms of how that is to be handled either between the parties or if

it was a judicial determination that all late penalties would be treated a certain way to make a standard determination or that no late penalties are to be considered at all, that is a different treatment.

Q. Okay. And, again, this is something that you haven't done yet in connection with your model, correct?

A. That is correct. It's outside of the original scope.

Q. Okay. How would your model take into account a situation in which a borrower refinances?

A. It all depends on what is written in. You know, what will be the final determination of how those type of borrowers should be handled.

You know, what is the determination on those class of borrowers that have refinanced, meaning what is the -- is it at the point at which they refinance, is there -- what should be included in as a measure of what expenses or costs are associated or whether it was at the negative amortization at that time and what the parameters are.

So at that point in time that we know, then it will be built to go over those functionalities.

Q. That's something, again, you do at some point in the future, correct?

A. You do it at the point in which those issues

are determined.
Q. Right. And so as of now it has not been done, correct?
A. That is correct.
Q. Okay. Let me just ask. I have a feeling I'm going to get a similar answer, but let me just make sure my record is clear.
What about if -- how would your model take into account loan modifications?
A. It would be exactly the same thing. Whatever determination is made, that variable will then be modeled out accordingly for the class of borrowers.
Q. And so once you figured out what the determination is and how it would be treated, you would write the code or do something to make sure that the model takes it into account correctly; is that correct?
A. Correct. It's just another variable.
Q. Right. And that is a variable that you would do the work to create the model -- I'm sorry. That's not right. Let me withdraw the question.
That's work that you would do in the future, correct?
A. When you know how you need to handle those type of potential class members.
Q. And then the same for loans that go into

foreclosure. Is that pretty much the same process, same answers?

A. It's another variable.

Q. Right. So you would have to first figure out how -- well, I'm sorry. I don't want to put words in your mouth. But that's something that your model would eventually take into account but it doesn't currently take into -- it hasn't been yet developed to take into account?

A. Well, I have not been provided the information with which to be able to model those issues. I could make educated assumptions and create models to handle it in multiple different ways but at the present time it doesn't seem to make sense to create multiple variables when you don't know what the primary variable will be.

Q. And so as of today you haven't -- because of what you just said, as of today you have not done that work?

A. I have not been asked to do that work, that's correct.

Q. And you haven't done it?

A. That's correct.

Q. Okay. Staying with Paragraph 27 for a second, on lines 6 and 7 there is a phrase that begins in the middle of line 6, "The amount specified in the payment

But you can answer.

THE WITNESS: Can you repeat that question, please. Sorry.

(The last question was read.)

THE WITNESS: That is outside of what I have been asked to do, but I would have to go back through the loan note to see if that was an opportunity in the note.

BY MR. ELLIS:

Q. Well, let me just represent to you, okay, and ask you to assume that it is true that each month Mr. Ralston received a coupon which gave him four options, that he could make the minimum payment, an interest only payment, a fully amortizing payment for his 30-year loan or a payment that was greater than the fully amortizing payment for the 30-year loan. Okay?

A. Okay.

Q. And I would like to also represent to you that the interest only payment was more than the minimum payment. Okay? Do you understand me so far?

A. Yes.

Q. Okay. In your model, if Mr. Ralston each month made an interest only payment, would your model indicate that he has suffered damage in this case?

A. If he made an interest only payment, I believe

it would.

Q. And would your model -- let me just give you some hypothetical numbers just to --

A. That's assuming -- sorry.

Q. Go ahead.

A. -- that the loan was fixed and that a determination was made that the benefit of the bargain was that he should have gotten the loan at one percent. There would be a damage number.

Q. Those are the assumptions that you were asked to make when you prepared your report, correct?

A. That's correct.

Q. Okay. So based on those assumptions, if Mr. Ralston made interest only payments, he would have suffered damage, correct?

A. I believe that is correct.

Q. Okay. And just to use numbers -- I'm not saying these are the actual numbers, but if he had -- if his minimum payment was $1,200 in a particular month and the interest only payment was $1,700 in that same month and Mr. Ralston paid $1,700, your model would treat $500 of that payment as a payment of principal, correct?

A. One of them would, that's correct.

Q. And that would be Table --

MR. WEISS: You can ask him which table, if you

you take a teaser rate of between one and three percent and you add on even the seven and a half percent that would be added on, that because of the nature of the index and the margin, that it was an impossibility for the loans to be paid off, okay, assuming it was fully amortized. There would be some interest going to negative amortization.

In the last couple -- in the last year there has been a potential where I would just have to go back and double-check, but because the index was down to a quarter of a percent there might have been a couple of months where you might have had some -- you might have had potentially some of the negative amortization turned around.

But if you look at the life cycles of loans and that these rates are a mere blip and that we went from, roughly, I think, three or four percent or five percent down to .25 percent at a very quick pace, which was the stimulus package that was put into the economy, that that's not going to stay and that's not going to be the long range.

So it is pretty much a likelihood, even if you looked over a long period of time, they would not have been able to be amortizing and fully amortizing at a one to three percent rate.

Q. Well, the calculations you refer to here, though, are they reflected in Tables 1 and 2 of your report or are they separate and apart from that?

A. The calculation -- it was a very simple calculation just to look at, which is looking at what the index margin rate was and looking at that that rate would be more than the interest rate, so that even an amortizing payment would not capture the full amount of interest.

Q. So were you comparing on the one hand the initial interest rate plus 7.5 percent yearly increases --

A. Right.

Q. -- to, on the other hand, the rate set forth in the note which included both the index and the margin?

A. That's correct. If you take the index and the margin, okay, that rate was always higher than -- if it was always higher than the one to three percent so that the teaser rate could never, even with the added seven and a half percent increase in what the payment was -- assuming that went all towards principal, you would never -- in all likelihood you would never over the life of the loan be able to pay off the loan under the stated term dates. Okay?

And if all the additional seven and a half

the additional negative amortization.

Q. Let me just follow up for a second. If you look at Exhibit 3, Exhibit 1 to Exhibit 3. We looked at that before. That's his note.

If you look at the page -- it's the first page of Exhibit 1 which is entitled "Adjustable Rate Note," Paragraph 3-D looks like, if I'm reading that correctly, the margin is 3.075 percent; is that correct?

A. The margin is 3.075 and then I think it goes up to the nearest 1/8 of a percentage higher.

Q. Uh-hmm. So you would take that number, add it to --

A. The index.

Q. -- the index today, which is very low --

A. A quarter point.

Q. -- and you would --

A. So you would -- to make it simple for us, if you would take 3.075 and add it to .25. So that would be 3.325, if I'm adding correctly.

Q. You are.

A. And then rounding that up, and I think it is 3.375.

Q. I believe that's right. And so you're comparing that number, 3.375, to what exactly?

A. Either one percent or three percent plus the --

Q. Escalated by 7.5 percent annual payment increases?

A. Right. Not the interest rate but the payment itself, that's correct.

Q. All right. Let's look at Table 1 in your initial report, which we have marked as Exhibit 2. And I realize you have made some changes to this, and so let me just -- let's start with this. We will get to the addendum. I just want to walk through Table 1 on your initial report.

Let me just -- I'm just going to pick as a reference point Payment No. 13, because it sort of gets us into Year 2 and it's convenient for me to do so.

So if you look at the row for Payment 13, which in this table is listed as February of '05 -- and I realize there may be some rounding issues, but the first column, $291,382 under the heading "Beginning Balance," does that come from, in Row 12, the ending balance number?

A. That's what it's supposed to represent.

Q. Okay. And the same would be true if I looked at the beginning balance in Row 21 for -- Payment 21 should be the same as the ending balance in Payment 20, correct?

A. It should be.

No. 13.

Now, this table -- and I realize this may or may not have errors in it but I want to ask about this first.

This was intended to show the additional payment attributable to the 7.5 percent annual increase in payment as a payment on principal, correct?

A. That's correct.

Q. Okay. So in the column that reads "Extra Payments" in Payment No. 13 the number 72 appears.

Do you see that?

A. Yes, I do.

Q. And what does that represent?

A. That was supposed to represent the difference between the original payment of $965 and the seven and a half percent that was added on on top of it. So that was the $72.

So in this case the scheduled payment of $103.07, in total payments it was showing as $1,110, all right, so it included an extra $72 in there. That was an error in the table.

Q. That's an error? You're double counting the $72, correct?

A. We were plugging in numbers to test. So the wrong copy of the model was actually picked up for the

A. That's correct.

Q. Okay. And so the total payment in Row 13 says it is $1,110, correct?

A. That's correct.

Q. Is that an error that still exists in this table?

A. Well, it can be considered an error. It also can be considered that it functions correctly depending on -- if that extra payment was considered additional interest, then they might have to pay any additional interest. Or if it was a late payment charge, that wouldn't reduce the principal amount.

So anything that's in that row at that point in time is not affecting the principal reduction, which is the proper way that Table 1 should be working.

Q. If you were -- I'm sorry. The proper way that Table 1 should be working.

Tell me what you mean by that.

A. What I mean by that is, for example, if we start out saying that $965 was the proper payment month by month.

Q. For 1 through 12?

A. For 1 through 12. The assumption is any payment above that amount, the seven and a half percent per year, was being accrued toward interest. Or any

payment above that that was potentially for a late payment or late payment charge that was asserted would go towards interest and would not affect the principal balance.

So that's all I was really saying. And that's what this chart shows. The only thing is the actual principal balance based off of the one percent 30-year amortization schedule is being reduced from principal.

Q. Okay. So shouldn't the total payment column in Row 13 be $1,037?

A. If it's just based off of the seven and a half percent, yes.

Q. Okay. All right. So this extra $72, which then turns the total amount into $1,110 is --

A. It doesn't affect the model.

Q. It doesn't affect the model because you're taking this money and just putting it as an interest payment?

A. That's correct.

Q. So it doesn't affect the declining balance number in the ending balance column, correct?

A. That's correct.

Q. All right. I mean, so for your -- for the purposes of your model it could say -- again, Payment No. -- the row for Payment No. 13, this extra payment

And what is the -- going back to the ending balance, in Row 12 the ending balance was $291,382. I'm just going to do this on a calculator because -- bear with me one second, please.

So if you take the ending balance in Row 12 it's $291,382. And if you subtract the ending balance in Row 13, that's $290,587.

The subtraction is $795. Is that what it's supposed to be or is it supposed to be something else? Is it supposed to be $722?

A. You're on --

Q. So if you look at -- I'm trying to figure out what -- I'm looking at Row 13, Payment 13.

Let me ask the question differently. Let me ask the question this way.

The ending balance for Payment 12 is $291,382, correct?

A. Uh-hmm.

Q. And the ending balance for Payment 13 should be $291,382 minus $722, correct?

A. That's correct. I might have an error in here.

Q. Yeah. That number would be $290,660. And, in fact, it's $290,587, on the chart, which is $73 less, subject to rounding. It looks an awful lot like $72.

A. Yeah.

Q. So, then -- and I realize you're going to want to confirm this and do your own math, but you do agree that the ending balance for Payment 13 should be the ending balance for Payment 12 minus the entry for the principal on Payment 13, correct?

A. That's correct.

Q. Okay.

A. And if there are any errors in here, those errors will be immediately corrected and resubmitted.

Q. Okay. All right. You were going down to Row 25. I just wanted to ask you what the -- what you were about to say about Row 25. I sort of cut you off because I wanted to finish on Row 13.

A. Row 25, instead of the additional payment, it's only an additional $72.

Q. And why is that? Why was it done that way?

A. Because 72 bucks was continued through the whole stream, just for testing monthly payments.

Q. Okay. So let me make sure I understand what you're saying.

So you're saying the $1,265 number should be the sum of what exactly? $730, the principal entry, plus $235, which is the interest entry, plus the $150 extra payment, correct?

A. Hold on one second. Okay. That should be --

It looks like the difference -- the number I get when I subtract $291,382 -- if I start with $291,382 and subtract $794 it's $290,588. Which it looks like the error is $73, which, if it's subject to rounding, may be the same as the $72.

A. I just have to double-check the schedules.

Q. Okay. So it looks -- based on what we have just been through, it looks like this ending balance column may be incorrect in that it includes some double counting of principal payments?

A. We might have had an additional principal payment, which means that if it was an additional principal payment in the "Extra" column, it is handling it correctly because it would reduce the principal in the last column by that additional amount.

Q. But in that case the total payment wouldn't be the $1,037; it would be a higher payment?

A. It would be the $1,110.

Q. Right. So it's not that it's inconceivable that there could be an extra payment of $72 of principal. It's just not internally consistent on the table as it's presented here, correct?

A. Right.

Q. Okay.

A. Counsel was trying to make sure that those that

assumption being that a model could be created to handle all members of the class.

Q. And have you given any thought to how you would create that model?

A. I'm not sure I understand.

Q. Well, you just made a reference to a model that you could create, so I guess my question is: Have you thought about how to create a model to determine whether all members of the putative class in this case have been injured?

A. Well, you would first look at who are the members of the class, determine the members of the class and then determine the parameters of what the potential damages are. For example, from what we were showing in Table 1 or Table 2, potential ways of handling those damages.

And then as you go through each individual person's scenario and put it into the model you would note whether they have been damaged and to what level they have been damaged based on the final determinations of what would constitute the provisions for the damages.

Q. And that's all work that you could do in the future but haven't done yet, correct?

A. That's work that's been outside the scope at the present time.

they should have gotten a one percent amortizing mortgage and that's the standard that is being held as the comparison, then if they paid larger amounts and those amounts that they paid larger than that one percent would be deemed as principal reductions, then they would have damages.

Q. So is it fair to say, though, that at this point you haven't formed an opinion one way or another on the question I asked about the putative class member who made a fully amortizing payment as represented by the loan servicing?

A. There are not enough facts to make the determination at this point in time one way or the other.

Q. Okay. And so as a responsible expert, you have not formed an opinion yet, correct?

A. I can't give you an opinion one way or another until I have the basic facts to dictate how that is to be handled.

Q. Okay.

A. You can put forward a couple of different scenarios potentially that could handle it, that you could show that it could be handled.

Q. Okay. Let me ask you another question. Let's take a member of the putative class who in Year 1 makes

what is represented by the loan servicer to be an interest only payment each month. Okay? Do you have that in mind?

A. Yes.

Q. You just agreed as a preliminary matter that that putative class member has not sustained any negative amortization, correct?

A. I can't give that answer.

Q. Isn't the concept of making an interest only payment -- doesn't that mean that the principal balance on the loan does not go up or down in that particular month?

A. That would be true.

Q. Okay. So if you have a member of the putative class who makes what is represented by the loan servicer to be an interest only payment each month in the first year of his loan and so at the end of the loan -- I'm sorry, the end of that one year, the end of the one year he has the same principal balance that he started with, okay, you agree that that member of the putative class has not sustained any negative amortization, correct?

A. No.

Q. Okay. Why do you disagree with that?

A. Because if a determination is made that the loan should have been a one percent self-amortizing loan

on a 30-year basis, if his minimum interest payment that the loan servicer is saying that the issuer should be paid is above that one percent, then he has actually paid additional interest or would have negative interest apply. He would have had excess interest paid.

Q. And you're equating that with negative amortization?

A. Well, his principal should have been lower. So whether you want to consider it that he wasn't given the proper principal reduction or whether that was additional interest that he did pay or negative -- it was additional interest payments.

So, yes, I guess you are correct. It wouldn't be negative amortization. It would have been additional interest that should not have been paid that would have been assigned to a reduction in principal.

Q. You are anticipating the next question I was going to go to. I appreciate that, but let me go ahead and get it in the record and you can answer.

So if you take a member of the putative class who makes what is represented to be an interest only payment -- I'm sorry. Let me start again.

You have a member of the putative class in Year 1 each month makes what's represented to you an interest only payment and as a result the balance on the loan at

the end of the first year is the same as it was at the start. Do you have an opinion on whether that class member has been injured? --

A. Potentially that class member has been injured.

Q. Okay. Depending on how certain things are treated and how certain parameters are determined, correct?

A. You've got that language pretty well documented.

Q. Okay. So at this point you don't have enough information to say whether that class member was or wasn't injured, correct?

A. And to the level that they were injured.

Q. If they were injured?

A. That's correct.

Q. Okay. Does your model take into account other loan products that are available in the market that the borrower would have qualified for?

A. I'm not sure I understand your question.

Q. Okay. What I'm trying to get at is, you know, one way to look at sort of a "but for" world is to say that if Mr. Ralston had not taken the loan that he took from Mortgage Investors and maybe would have taken a loan from some other vendor, and so I'm asking you does your --

(Telephonic interruption.)

BY MR. ELLIS:

Q. So my question is: Does your model take into account in Mr. Ralston's case other loan products that were available in the market in 2005 that he might have qualified for or is that something that's just not part of your model at all?

A. Well, that was outside of the scope of what I was asked to do but that is something that can clearly easily be incorporated into the model. It's just another variable, another exercise to go through.

Q. So it's something that you could create a model to take into account, correct?

A. Yeah. You know, it's just another subroutine for part of -- in developing the damage calculation.

Q. Just so the record is clear, you haven't done that yet, correct?

A. That's correct.

Q. All right. Now, in the case of a refinance, one way to look at the "but for" world is to compare the loan that the borrower had before to the loan he got -- you know, to the refinancing loan.

And my question with that background is: Does your model take into account, in the case of a refinance, the comparison between the terms of the

borrower's earlier loan and the refinance?

MR. WEISS: Objection.

You can answer.

THE WITNESS: It's the same answer as I gave to the other one. It's outside the scope of what I have been asked to do currently but it's just another variable that can be modeled out as another potential scenario relating to the calculation "but for's."

BY MR. ELLIS:

Q. So it's something that you haven't done up to the present, correct?

A. I have not been asked to do it.

Q. And you haven't done it?

A. And I haven't done it.

Q. I only say that because sometimes people do things they are not asked to do.

Does your -- let me ask it this way.

I think we're all aware of what has happened to home prices generally across the country over the last couple of years, but in the early part of the class period, 2004, 2005, 2006, it predates some of the decline in real estate prices.

And so my question is: Does your model, the work you have done to date, take into account any gain that a putative class member might have experienced if

they bought the property that was incurred by the loan early in the class period and then sold it a couple of years later and made money on the deal?
A. That's outside of the scope of what I have been asked to do. Not to say that it can't be done. Just adding the data entries points you can easily model it out.
Q. It's the same essentially as the last couple of questions. It's something you could do but haven't done yet?
A. I haven't been asked to do it. And as long as the data points are available and you can make a determination in an "if then" statement or some other sort of subroutine, you can take care of those.
Q. Okay. But up until now you haven't done any work to have the model reflect any gain that the borrower may have had from selling the property?
A. That's outside of the scope of the work that I was asked to do.
Q. And outside of the scope of the work that you have done, correct?
A. That's correct.
Q. Okay. Does your model take into account any of the information that the borrower received prior to closing other than what's in the note and the truth in

into part of your model; is that right?

A. Potentially, yes.

Q. And I don't mean to be facetious about it, but if it turned out it mattered whether, you know, the borrower had blue eyes or brown eyes, if the data were available you could write up if blue eyes, then this; if brown eyes, then that, correct?

A. That's the nature of computer programming, the ability it gives you, yes.

Q. So you sort of envision your models including anything you can do with computer programming; is that correct?

A. Well, you can have certain variables that either designate what the class members are and who is included or excluded from the class. And when you know what those parameters are you generally can model those parameters unless it is something that cannot be modeled by computer or you would have to go through the class on an individual basis.

But if you go through the class on an individual basis and put that into a checked box, then you could really run the remaining part of that electronically.

Q. So is it correct to say that anything that can be -- anything that can be reduced to computer

programming could be part of your model?

A. Pretty much, yes.

Q. All right. Let me just ask you just -- I think these are going to be pretty easy questions but I just want to make sure I'm not missing anything here.

Are you as of today providing any expert opinion testimony on consumer behavior issues, either generally or specifically with lending and borrowing?

MR. WEISS: Objection.

You can answer.

THE WITNESS: Not that I have been asked to do today.

BY MR. ELLIS:

Q. And as of today are you providing any expert opinion testimony on issues of causation?

A. Not that I have been asked to do today.

Q. What about -- and I may have asked this earlier. And if I did, I apologize.

Are you providing any -- actually, let me back up and just ask: Have you formed an opinion on the actual amount of damages, if any, suffered by Mr. Ralston?

A. I haven't as of today, but depending on what the parameters are, what I will be asked to do, I will come up with it, if asked to.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 14, 2011, at Houston, TX.

SIGNATURE OF THE WITNESS